

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

WILLIAM MILLER,)	
)	
Plaintiff,)	
)	
v.)	Case No. 2:04 CV 387
)	
)	
UNICARE LIFE & HEALTH)	
INSURANCE COMPANY,)	
)	
Defendant)	

OPINION and ORDER

This matter is before the court on the Motion for Extension of Time, filed by the plaintiff, William Miller, as a Letter on August 4, 2005. For the reasons set forth below, this motion is **GRANTED**.

Background

Miller seeks an extension of time to find counsel and respond to a pending motion to dismiss. This request is the plaintiff's third motion for more time to find counsel, which the plaintiff has been without since January 7, 2005. On May 27, 2005, the plaintiff notified the court that at some point prior to that date, his previous counsel had determined not to re-enter the case. Nevertheless, the court directed the defendant to file any motions for summary judgment by August 1, 2005 and the plaintiff to respond by September 1, 2005. On June 30, 2005, the defendant filed a motion to dismiss.

Discussion

As a preliminary matter, the defendant included an affidavit

with its motion to dismiss. Therefore, the motion to dismiss is **CONVERTED** to a motion for summary judgment pursuant to Federal Rule of Civil Procedure 12(b). The court further finds that the plaintiff has received adequate notice of this motion, as required by Local Rule 56.1(e), because the court gave the plaintiff a copy of Rule 56 and explained the summary judgment procedure to him at a status conference on May 27, 2005.

Turning to the plaintiff's motion for an extension of time, the court notes that prior to the defendant's filing of its motion to dismiss (now motion for summary judgment), the plaintiff had six months to find counsel. Although a response to a motion for summary judgment is typically due 30 days after the motion is filed, the court will grant the plaintiff's motion for an extension of time up to September 1, 2005 because the defendant's motion was filed one month before the deadline set by this court on May 27, 2005. Therefore, the plaintiff will have had two additional months to find counsel before his response is due. The court finds that eight months to find counsel, and two months to respond to a motion for summary judgment, is adequate under the circumstances of this case.

For the foregoing reasons, the motion for an extension of time filed by the plaintiff, William Miller, as a Letter on August 4, 2005 is **GRANTED**. The plaintiff shall have until September 1, 2005 to respond to the defendant's pending motion for summary judgment, with or without counsel. **NO FURTHER**

EXTENSIONS OF TIME WILL BE GRANTED.

ENTERED this 9 August, 2005

s/ ANDREW P. RODOVICH

United States Magistrate Judge